MONTANA LEGISLATIVE HISTORY

Chapter 62 19 99

Bill H 214 S _____ Original bill & history ✓ C

H. Committee on Judiciary

Hearing Date(s) ~~1/8~~ 1/19 ✓ C

1/22 ✓ C

_____ C

_____ C

Date Out _____ C

S. Committee on Judiciary ✓

Hearing Date(s) 3/3 ✓ C

_____ C

_____ C

_____ C

Did this bill originate in an interim committee? ____Yes ✓ No

Committee _____ Report _____

LEGISLATIVE HISTORIES SINCE 1997

The scope and depth of legislative committee minutes varies by year and by committee. If you would like additional information about a hearing, you may want to determine whether the hearing was recorded. In addition, some recent floor debates were also recorded. For information on accessing or purchasing these recordings, contact the Historical Society Archives at 406-444-4774.

If you have concerns regarding the format of the enclosed committee minutes or the recordings of the hearings, it is suggested that you contact your state legislators.

3/23	Returned from Enrolling		
3/24	Signed by Speaker		
3/24	Signed by President		
3/25	Transmitted to Governor		
3/29	Signed by Governor		
3/30	Chapter Number Assigned		
	Chapter Number 185		
	Effective Date: 3/26/1999 - All Sections		

HB 212 Introduced by Hagener, et al. *LC0787 Drafter: Niss*

Provide That the Governing Body of a Political Subdivision Rather than the Manager or Person in Charge of the Office or Work Area May Establish Smoke-free Buildings or Smoking and Nonsmoking Areas;...

1/06	Introduced and 1st Reading		
1/06	Referred to Local Government		
1/19	Hearing		
1/20	Committee Executive Action--Bill Passed as Amended	17	0
1/20	Committee Report--Bill Passed as Amended		
1/23	2nd Reading Passed as Amended	94	5
1/26	3rd Reading Passed	95	4
	Transmitted to Senate		
1/27	Referred to Local Government		
3/02	Hearing		
3/24	Committee Executive Action--Bill Concurred	8	3
3/24	Committee Report--Bill Concurred		
3/26	2nd Reading Concurred	28	20
3/27	3rd Reading Concurred	28	21
	Returned to House		
3/27	Sent to Enrolling		
3/29	Returned from Enrolling		
3/30	Signed by Speaker		
3/30	Signed by President		
3/31	Transmitted to Governor		
4/07	Signed by Governor		
4/10	Chapter Number Assigned		
	Chapter Number 274		
	Effective Date: 7/01/1999 - All Sections		

HB 213 Introduced by McGee *LC0273 Drafter: Higgins*

Authorize the Department of Corrections to Provide a Parolee with Earned Incentive Allowance Credits to Be Used to Reduce Time Spent on Parole;...

1/06	Introduced and 1st Reading
1/06	Referred to Judiciary
1/18	Hearing
1/19	Tabled in Committee
3/01	Missed Deadline for General Bill Transmittal

HB 214 Introduced by McGee *LC0788 Drafter: Lane*

Clarify That Land Surveying, with or Without Other Improvements to Real Property, Is Subject to the Limitations on Actions;...

1/06	Introduced and 1st Reading		
1/06	Referred to Judiciary		
1/19	Hearing		
1/22	Committee Executive Action--Bill Passed	18	0
1/23	Committee Report--Bill Passed		
1/26	2nd Reading Passed	91	8
1/27	3rd Reading Passed	89	10
	Transmitted to Senate		
1/28	Referred to Judiciary		
3/03	Hearing		
3/03	Committee Executive Action--Bill Concurred	8	0
3/03	Committee Report--Bill Concurred		
3/04	2nd Reading Concurred	49	1
3/05	3rd Reading Concurred	46	4
	Returned to House		
3/05	Sent to Enrolling		
3/08	Returned from Enrolling		
3/09	Signed by Speaker		
3/10	Signed by President		
3/10	Transmitted to Governor		
3/15	Signed by Governor		
3/16	Chapter Number Assigned		
	Chapter Number 62		
	Effective Date: 10/01/1999 - All Sections		

HB 215 Introduced by Ewer, et al. *LC0657 Drafter: Sternberg*

Prohibit the Use of Electronic Motion-tracking Devices While Hunting

1/06	Introduced and 1st Reading		
1/06	Referred to Fish, Wildlife, and Parks		
1/14	Hearing		
1/15	Committee Executive Action--Bill Passed as Amended	15	5
1/16	Committee Report--Bill Passed as Amended		
1/19	2nd Reading Passed	70	29
1/20	3rd Reading Passed	72	27
	Transmitted to Senate		
1/27	Referred to Fish and Game		
3/02	Hearing		
3/10	Committee Executive Action--Bill Concurred as Amended	10	2
3/10	Committee Report--Bill Concurred as Amended		
3/13	2nd Reading Concurred	47	0
3/15	3rd Reading Concurred	46	3
	Returned to House with Amendments		
4/13	2nd Reading Senate Amendments Concurred	97	0
4/14	3rd Reading Passed as Amended by Senate	84	15
4/14	Sent to Enrolling		
4/15	Returned from Enrolling		
4/16	Signed by Speaker		
4/16	Signed by President		
4/16	Transmitted to Governor		
4/20	Signed by Governor		

INTRODUCED BY _____ BILL NO. 214
(Primary Sponsor)

A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING THAT LAND SURVEYING, WITH OR WITHOUT OTHER IMPROVEMENTS TO REAL PROPERTY, IS SUBJECT TO THE LIMITATIONS ON ACTIONS; DEFINING "LAND SURVEYING"; AND AMENDING SECTION 27-2-208, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 27-2-208, MCA, is amended to read:

"27-2-208. **Actions for damages arising out of work on improvements to real property** or land surveying. (1) Except as provided in subsections (2) and (3), ~~no~~ an action to recover damages (other than an action upon any contract, obligation, or liability founded upon an instrument in writing) resulting from or arising out of the design, planning, supervision, inspection, construction, or observation of construction of any improvement to real property or resulting from or arising out of land surveying ~~done in connection with any improvement to~~ of real property ~~shall~~ may not be commenced more than 10 years after completion of ~~such~~ the improvement or land surveying.

(2) Notwithstanding the provisions of subsection (1), an action for ~~such~~ damages for an injury ~~which~~ that occurred during the 10th year after ~~such~~ the completion of the improvement or land surveying may be commenced within 1 year after the occurrence of ~~such~~ the injury.

(3) The limitation prescribed by this section ~~shall~~ may not affect the responsibility of any owner, tenant, or person in actual possession and control of the improvement or real property that is surveyed at the time a right of action arises.

(4) As used in this section~~, the term~~:

(a) "completion" means that degree of completion at which the owner can utilize the improvement for the purpose for which it was intended or when a completion certificate is executed, whichever is earlier;

(b) "land surveying" means the practice of land surveying, as defined in 37-67-101.

(5) ~~Nothing in this~~ This section ~~shall~~ may not be construed as extending the period prescribed by the laws of this state for the bringing of any action."

- END -

INTRODUCED BILL
HB 214

MINUTES

MONTANA HOUSE OF REPRESENTATIVES
56th LEGISLATURE - REGULAR SESSION

COMMITTEE ON JUDICIARY

Call to Order: By **CHAIRMAN ROBERT C. CLARK**, on January 19, 1999 at 8:00 A.M., in Room 312 - 1 Capitol.

ROLL CALL

Members Present:

Rep. Robert C. Clark, Chairman (R)
Rep. Dan McGee, Vice Chairman (R)
Rep. Diana Wyatt, Vice Chairman (D)
Rep. Chris Ahner (R)
Rep. Shiell Anderson (R)
Rep. Paul Clark (D)
Rep. Bill Eggers (D)
Rep. Tom Facey (D)
Rep. Steven Gallus (D)
Rep. Gail Gutsche (D)
Rep. Joan Hurdle (D)
Rep. Rick Jore (R)
Rep. Sam Kitzenberg (R)
Rep. Brad Molnar (R)
Rep. Mark Noennig (R)
Rep. Jim Shockley (R)
Rep. Loren Soft (R)
Rep. Carol Williams (D)
Rep. Cindy Younkin (R)

Members Excused: Rep. Aubyn A. Curtiss (R)

Members Absent: None.

Staff Present: John MacMaster, Legislative Branch
Pam Schindler, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing: 1/19/1999- HB 214, HB 235, SB 6, SB 32,
Date Posted: 1/14/1999
Executive Action: HB's 54, 213 and 28 Tabled

HB 115-Do Pass As Amended
HB 53-Do Pass AS Amended

Chairman Robert Clark opened meeting at 8:05 a.m.
{Tape : 1; Side : A; Approx. Time Counter : 0 - 29}

HEARING ON HB 214

Sponsor:

Rep. McGee presented HB 214.
{Tape : 1; Side : A; Approx. Time Counter : 29 - 83}
EXHIBIT(1)

Proponents:
Steve Powell, registered land surveyor
{Tape : 1; Side : A; Approx. Time Counter : 83 - 140}
EXHIBIT(2)

Opponents:
None

Informational Testimony:
None

Questions from Committee Members and Responses:
{Tape : 1; Side : A; Approx. Time Counter : 140 - 236}

Closing by Sponsor:

Rep. McGee made closing statements.
{Tape : 1; Side : A; Approx. Time Counter : 236 - 256}

HEARING ON HB 235

Sponsor:

Rep. Witt presented HB 235.
{Tape : 1; Side : A; Approx. Time Counter : 256 - 306}
EXHIBIT(3)

Proponents:

Debbie Rossmiller, "Cyber Angels"
{Tape : 1; Side : A; Approx. Time Counter : 306 - 367}

EXHIBIT 1
DATE 1/19/99
HB 214

(6) "Practice of land surveying" means any service or work, the performance of which requires the application of special knowledge of the principles of mathematics, physical sciences, applied sciences, and:

(a) the principles of property boundary law to the recovery and preservation of evidence pertaining to earlier land surveys;

(b) teaching of land surveying subjects;

(c) measurement and allocation of lines, angles, elevations, and coordinate systems;

(d) location of natural and constructed features in the air, on the surface of the earth, within underground workings, and on the beds of bodies of water, including work for the determination of areas and volumes;

(e) monumenting of property boundaries;

(f) platting and layout of lands and the subdivisions of land, including the alignment and grades of streets and roads in subdivisions; and

(g) preparation and perpetuation of maps, plats, field note records, and property descriptions.

(7) "Professional engineer" means a person who, by reason of special knowledge and use of the mathematical, physical, and engineering sciences and the principles and methods of engineering analysis and design acquired by engineering education and engineering experience, is qualified to practice engineering and who has been registered and licensed as a professional engineer by the board.

(8) "Professional land surveyor" means a person who:

(a) has been registered and licensed as a land surveyor by the board;

(b) is a professional specialist in the technique, analysis, and application of measuring land;

(c) is skilled and educated in the principles of mathematically related physical and applied sciences, relevant requirements of law for adequate evidence, and all requisites to the surveying of real property; and

(d) is engaged in the practice of land surveying as defined in this section.

(9) "Responsible charge" means direct charge and control and personal supervision either of engineering work or of land surveying. Only a professional engineer or a professional land surveyor may legally assume responsible charge under this chapter.

History: En. Sec. 2, Ch. 366, L. 1975; R.C.M. 1947, 66-2350(part); amd. Sec. 25, Ch. 22, L. 1979; amd. Sec. 3, Ch. 274, L. 1981; amd. Sec. 2, Ch. 553, L. 1985; amd. Sec. 1, Ch. 108, L. 1995.

37-67-102. Representation as practitioner to be construed as practice. (1) A person shall be construed to practice or offer to practice engineering, within the meaning and intent of this chapter, who practices any branch of the profession of engineering or who by verbal claim, sign, advertisement, letterhead, card, or in any other way represents himself to be a professional engineer or through the use of some other title implies that he is a professional engineer or that he is registered under this chapter or who holds himself out as able to perform or who does perform any engineering service or work or any other service designated by the practitioner which is recognized as engineering.

(2) Any person shall be construed to practice or offer to practice land surveying, within the meaning and intent of this chapter, who engages in land surveying or who by verbal claim, sign, letterhead, card, or in any other way represents himself to be a professional land surveyor or through the use of some other title implies that he is a professional land surveyor or who represents himself as able to perform or who does perform any land surveying service or work or any other service designated by the practitioner which is recognized as land surveying.

EXHIBIT 2
DATE 1/19/09
HB 214

POWELL SURVEYING, INC.

STEVE POWELL
MONTANA LICENSED LAND SURVEYOR #4662-S
341 Grantsdale Road, Hamilton, MT 59840
363-2116 or 363-6389
Email: powell@cybernet1.com

TESTIMONY: HB NO. 214

Chairman Clark, Members of the Committee:

My name is Steve Powell. I have been a licensed land surveyor since 1976 and live in Hamilton. I also served as a Ravalli County Commissioner from 1989 - 1994.

I encourage your passage of HB NO. 214 which I feel will be of significant benefit to both land surveyors in Montana and the general public. This limitation on actions against surveyors for work performed over ten years in the past will provide long needed protection from the increasing tendency toward litigation. I suggest that the public is not well served by a situation where the senior practicing surveyors in Montana can be sued for damages and face losing their license over a project they completed 10 to 40 years ago.

With your indulgence I would like to give you some insight into the context of our work. To be licensed by the State a surveyor must meet certain educational qualifications, pass a 16 hour examination and meet regular continuing education requirements. The licensing board has a procedure for hearing complaints against surveyors, in addition, our professional organization has established standards of practice and ethical guidelines. In short, the public can be confident that the licensed surveyor they hire is able to accurately take measurements and knows the law applicable to the profession.

The source of disputes either between surveyors or between a surveyor and the client usually results from the often ambiguous nature of the evidence upon which land titles are based. The question is seldom did the surveyor measure accurately, but rather where did the measurement start. Our legal descriptions are still primarily based on section corners set in the first years

that land was settled. Obviously many of these corner have been lost over the years to road building, farming or other activities. Often a surveyor is required to make a judgment about the best evidence of the original corner, and it does occur that two surveyors can reach different conclusions from the same evidence. Similarly many legal descriptions were drafted without the benefit of a survey and contain ambiguous or contradictory terms. The surveyor again has to exercise professional judgment realizing that another surveyor or a judge may reach a different conclusion.

Given this inherent level of uncertainty, those of us that have practiced for some time in Montana see a problem developing for our profession. In recent years in many portions of the state land values have increased substantially. The new residents that have bought this more valuable land are not nearly so casual as the old-timers about the location of their boundary lines or the acreage of their tract. They also have a tendency to litigate rather than reach some kind of accommodation in the event of a dispute. A surveyor faces the potential that a new landowner will bring an action against him/her for a survey conducted years ago when the land was worth a faction of its present value with the primary fault of the surveyor being that his/her call at the time is not the same as a judge's determination 15 or 20 years in the future.

The measure before you today will put a reasonable limit on the exposure that surveyors have for past work. It is very likely that a serious error in measurement or judgment will be discovered within ten years of the completion of a survey. The client or purchaser of the subject property will still have recourse during this time. It is also likely that a surveyor whose practice is consistently substandard will be identified and leave the profession either through financial loss or the removal of his/her license. The liability limitation provided in this bill will make it more likely that experienced surveyors will stay in the profession and that talented individuals will join it. The public is well served on both counts.

Thank you for your time today and your service to the people of Montana.

HOUSE OF REPRESENTATIVE
ROLL CALL

JUDICIARY COMMITTEE

DATE 1/19/99

NAME	PRESENT	ABSENT	EXCUSED
Robert C. Clark, chair			
Dan McGee, vice chair			
Diana Wyatt, vice chair			
Chris Ahner			
Shiell Anderson			
Paul Clark			
Aubyn A. Curtiss			
Bill Eggers			
Tom Facey			
Steven Gallus			
Gail Gutsche			
Joan Hurdle			
Rick Jore			
Sam Kitzenberg			
Brad Molnar			
Mark Noenning			
Jim Shockley			
Loren Soft			
Carol Williams			
Cindy Younkin			

MONTANA HOUSE OF REPRESENTATIVES
VISITORS REGISTER

HOUSE JUDICIARY COMMITTEE

DATE 1/19/99

BILL NO. HB 214 SPONSOR(S) McGee

PROPONENT (P) OPPONENT (O) INFORMATIONAL (I)
(PLEASE IDENTIFY TYPE OF VISITOR)

PLEASE PRINT

TYPE	NAME	ADDRESS	REPRESENTING
P	Steve Powell	Hamilton 243 Meadowlark	Myself.
I	Jake Jelinski	Helena	MACo
P	W James Kembel	1100 Knight Helena	MTC

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

MINUTES

MONTANA HOUSE OF REPRESENTATIVES
56th LEGISLATURE - REGULAR SESSION

COMMITTEE ON JUDICIARY

Call to Order: By **CHAIRMAN ROBERT C. CLARK**, on January 22, 1999 at 7:00 A.M., in Room 312 - 1 Capitol.

ROLL CALL

Members Present:

Rep. Robert C. Clark, Chairman (R)
Rep. Dan McGee, Vice Chairman (R)
Rep. Diana Wyatt, Vice Chairman (D)
Rep. Chris Ahner (R)
Rep. Shiell Anderson (R)
Rep. Paul Clark (D)
Rep. Aubyn A. Curtiss (R)
Rep. Bill Eggers (D)
Rep. Tom Facey (D)
Rep. Steven Gallus (D)
Rep. Gail Gutsche (D)
Rep. Joan Hurdle (D)
Rep. Rick Jore (R)
Rep. Sam Kitzenberg (R)
Rep. Brad Molnar (R)
Rep. Mark Noennig (R)
Rep. Jim Shockley (R)
Rep. Loren Soft (R)
Rep. Carol Williams (D)
Rep. Cindy Younkin (R)

Members Excused: None.

Members Absent: None.

Staff Present: John MacMaster, Legislative Branch
Pam Schindler, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing Date: 1/22/1999HB 292,HB 293,HB283,HB261
SB 24

Date Posted: 1/18/1999
Executive Action: HB203-Do Pass as Amended
HB 149-Do Pass as Amended
HB 47-Do Pass as Amended
SB 6-Be Concurred
HB 214-Do Pass
HB 283-Do Pass
HB's-235,261 and SB 32 Tabled

EXECUTIVE ACTION ON HB 214

Motion/Vote: REP. MCGEE moved that HB 214 BE PASSED. Motion carried unanimously.

(Rep. Williams and Eggers absent during this action)
{Tape : 1; Side : A; Approx. Time Counter : 0 - 105}

EXECUTIVE ACTION ON HB 235

Motion/Vote: REP. YOUNKIN moved that HB 235 BE AMENDED. Motion carried 14-4.
Motion/Vote: REP. MOLNAR moved that HB 235 BE TABLED. Motion carried 11-7 with Ahner, Clark, Curtiss, Kitzenberg, McGee, Shockley, and Younkin voting no.
(Rep. Williams and Eggers absent during this action)

{Tape : 1; Side : A; Approx. Time Counter : 105 - 246}

EXECUTIVE ACTION ON SB 6

Motion/Vote: REP. YOUNKIN moved that SB 6 BE CONCURRED IN. Motion carried 17-1 with Jore voting no.
(Rep. Williams and Egggers absent during this action)

{Tape : 1; Side : A; Approx. Time Counter : 246 - 426}

EXECUTIVE ACTION ON HB 47

Motion/Vote: REP. ANDERSON moved that HB 47 BE AMENDED. Motion carried 17-1 with Molnar voting no. EXHIBIT(1)

Motion/Vote: REP. YOUNKIN moved that HB 47 BE PASSED AS AMENDED. Motion carried unanimously.

HOUSE OF REPRESENTATIVE
ROLL CALL

JUDICIARY COMMITTEE

DATE 1/22/99

NAME	PRESENT	ABSENT	EXCUSED
Robert C. Clark, chair			
Dan McGee, vice chair			
Diana Wyatt, vice chair			
Chris Ahner			
Shiell Anderson			
Paul Clark			
Aubyn A. Curtiss			
Bill Eggers			
Tom Facey			
Steven Gallus			
Gail Gutsche			
Joan Hurdle			
Rick Jore			
Sam Kitzenberg			
Brad Molnar			
Mark Noennig			
Jim Shockley			
Loren Soft			
Carol Williams			
Cindy Younkin			

HOUSE STANDING COMMITTEE REPORT

January 22, 1999

Mr. Speaker:

We, your committee on **Judiciary** report that **House Bill 214** (first reading copy -- white) **do pass.**

Signed: Robert Bob Clark
Representative Robert C. Clark, Chair

- END -

Committee Vote:
Yes 18, No 0.

171423SC.ham

MINUTES

MONTANA SENATE
56th LEGISLATURE - REGULAR SESSION

COMMITTEE ON JUDICIARY

Call to Order: By **CHAIRMAN LORENTS GROSFIELD**, on March 3, 1999 at 9:00 A.M., in Room 325 Capitol.

ROLL CALL

Members Present:

Sen. Lorents Grosfield, Chairman (R)
Sen. Al Bishop, Vice Chairman (R)
Sen. Sue Bartlett (D)
Sen. Steve Doherty (D)
Sen. Duane Grimes (R)
Sen. Mike Halligan (D)
Sen. Ric Holden (R)
Sen. Reiny Jabs (R)
Sen. Walter McNutt (R)

Members Excused: None.

Members Absent: None.

Staff Present: Jodi Pauley, Committee Secretary
Valencia Lane, Legislative Branch

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: HB 48, 2/25/1999; HB 116, 2/25/1999; HB 214, 2/25/1999
Executive Action: HB 48; HB 214; HB 233

HEARING ON HB 116

Sponsor: REP. DAN MCGEE, HD 21, Laurel

Proponents:

SEN. CHRIS CHRISTIAENS, SD 23, Great Falls
Mike Ferriter, Community Corrections

SEN. GRIMES asked if they had thought about doing this for second or third time DUI's and what is the cost impact of this bill. **Mike Ferriter** said as far as cost they have not requested a budget appropriation for this project. They would like to explore it and utilize pre-release funds. Pre-release programs cost around $40 per day. The cost of this program will be more as there is treatment involved rather than the traditional correctional setting. This is one option of six that may work. He said the Department of Corrections only gets involved in fourth time DUIs. It is the felony offender by law that is required to do six months of imprisonment. They don't handle 1-3 DUI offenders at the felony level. Probation is not an option for 4th time DUI offenders.

SEN. BARTLETT said she would like to see the number of offenders committed to the correctional system for fourth time DUI's. **Mike Ferriter** said he could get more detailed information but on January, 27, 1999 there were 49 offenders at the Montana State Prison serving time for fourth time DUI.

Closing by Sponsor:

REP. MCGEE said this is an option available to the court. The court does not have to choose this option and would not be appropriate for someone who has committed another crime.

{Tape : 1; Side : A; Approx. Time Counter : 9:33 a.m.}

HEARING ON HB 214

Sponsor: REP. DAN MCGEE, HD 21, Laurel

Proponents:

Virginia Mueller, Mueller Consulting
Larry Marshall, MT Associates Inc.
Frank Ritchie, Ritchie Land Surveying
Stephen Ries, Ries Surveying

Opponents: None

Opening Statement by Sponsor:

REP. DAN MCGEE, HD 21, Laurel, read the title of the bill. He also read lines 12-15. He said if he is hired to stake out the base of the Capitol Building so it can be constructed, this building is an improvement to the land. It is not always understood that if he stakes the corner boundaries of the

property it is also an improvement to the land. He said on line 28, they are defining what land surveying means. He passed out a definition for land surveying that is in the statutes. **EXHIBIT(1)** He said when they set property corners it is an improvement to the land.

Proponents' Testimony:

Virginia Mueller, Mueller Consulting, said the placement of a ten year limitation of the liability of a land surveyor for the improvements to the property is a positive step. Discovery of any serious errors would probably be made prior to the ten year limit. Without this limitation a surveyor is forced to maintain very expensive liability insurance for a lifetime.

Larry Marshall, MT Associates Inc. of Land Surveyors, said he would like to limit his liability especially when he retires. The cost for liability insurance runs from $2000 - $10,000 plus the expense of the deductible.

{Tape : 1; Side : A; Approx. Time Counter : 9:40 a.m.}

Frank Ritchie, Ritchie Land Surveying, rose in support of **HB 214. EXHIBIT(2)**

Stephen Ries, Ries Surveying, said even after surveyors have passed away they try to get compensation for errors.

Opponents' Testimony: None

Questions from Committee Members and Responses: None

Closing by Sponsor:

REP. MCGEE said current law states that land surveying falls under the statute of limitations. But what is not clear is if the setting of a property corner is an improvement to the ground.

{Tape : 1; Side : A; Approx. Time Counter : 9:45 a.m.}

HEARING ON HB 48

Sponsor: REP. DAN MCGEE, HD 21, Laurel

Proponents:

Luke Faust, Attorney

EXECUTIVE ACTION ON HB 48

Motion/Vote: **SEN. MCNUTT** moved **HB 48 BE CONCURRED IN. Motion carried unanimously 8-0.**

EXECUTIVE ACTION ON HB 214

Motion/Vote: **SEN. JABS** moved **HB 214 BE CONCURRED IN. Motion carried unanimously 8-0.**

EXECUTIVE ACTION ON HB 233

Discussion:

SEN. DOHERTY said he doesn't like this bill and the notion of assigning a judicial action to a private collections agency. He said he understands the problems with overworked police officers, but he doesn't understand why this has to be assigned to a private entity when it is a judicial function.

CHAIRMAN GROSFIELD said almost every other state does this.

SEN. JABS said Billings was doing this for awhile and were very successful until they found out they were not in compliance with the law.

SEN. BARTLETT asked if these were civil or criminal fines. **CHAIRMAN GROSFIELD** said they concern both.

SEN. HALLIGAN said if people have a six month time frame to pay and the court doesn't receive any payment in three months the court clerks will send a letter and try to get people to pay. He said in 30 percent of the cases there are people that just can't pay, so they do community service, etc. This bill will be used when people don't come in to pay the fines, etc. to try to collect. There is no additional fees here and other states do use this.

Motion: **SEN. JABS** moved **HB 233 BE CONCURRED IN.**

Discussion:

SEN. DOHERTY said he is concerned about delegating a judicial function to a private corporation.

SEN. GRIMES asked if this is an addition to the fines. **CHAIRMAN GROSFIELD** said line 19-20 clarifies that and there is no additional charge.

SENATE BUSINESS & LABOR
EXHIBIT NO. 1
DATE 3/3/99
BILL NO. HB 214

(6) "Practice of land surveying" means any service or work, the performance of which requires the application of special knowledge of the principles of mathematics, physical sciences, applied sciences, and:

(a) the principles of property boundary law to the recovery and preservation of evidence pertaining to earlier land surveys;

(b) teaching of land surveying subjects;

(c) measurement and allocation of lines, angles, elevations, and coordinate systems;

(d) location of natural and constructed features in the air, on the surface of the earth, within underground workings, and on the beds of bodies of water, including work for the determination of areas and volumes;

(e) monumenting of property boundaries;

(f) platting and layout of lands and the subdivisions of land, including the alignment and grades of streets and roads in subdivisions; and

(g) preparation and perpetuation of maps, plats, field note records, and property descriptions.

(7) "Professional engineer" means a person who, by reason of special knowledge and use of the mathematical, physical, and engineering sciences and the principles and methods of engineering analysis and design acquired by engineering education and engineering experience, is qualified to practice engineering and who has been registered and licensed as a professional engineer by the board.

(8) "Professional land surveyor" means a person who:

(a) has been registered and licensed as a land surveyor by the board;

(b) is a professional specialist in the technique, analysis, and application of measuring land;

(c) is skilled and educated in the principles of mathematically related physical and applied sciences, relevant requirements of law for adequate evidence, and all requisites to the surveying of real property; and

(d) is engaged in the practice of land surveying as defined in this section.

(9) "Responsible charge" means direct charge and control and personal supervision either of engineering work or of land surveying. Only a professional engineer or a professional land surveyor may legally assume responsible charge under this chapter.

History: En. Sec. 2, Ch. 366, L. 1975; R.C.M. 1947, 66-2350(part); amd. Sec. 25, Ch. 22, L. 1979; amd. Sec. 3, Ch. 274, L. 1981; amd. Sec. 2, Ch. 553, L. 1985; amd. Sec. 1, Ch. 108, L. 1995.

37-67-102. Representation as practitioner to be construed as practice. (1) A person shall be construed to practice or offer to practice engineering, within the meaning and intent of this chapter, who practices any branch of the profession of engineering or who by verbal claim, sign, advertisement, letterhead, card, or in any other way represents himself to be a professional engineer or through the use of some other title implies that he is a professional engineer or that he is registered under this chapter or who holds himself out as able to perform or who does perform any engineering service or work or any other service designated by the practitioner which is recognized as engineering.

(2) Any person shall be construed to practice or offer to practice land surveying, within the meaning and intent of this chapter, who engages in land surveying or who by verbal claim, sign, letterhead, card, or in any other way represents himself to be a professional land surveyor or through the use of some other title implies that he is a professional land surveyor or who represents himself as able to perform or who does perform any land surveying service or work or any other service designated by the practitioner which is recognized as land surveying.

SENATE JUDICIARY COMMITTEE
EXHIBIT NO. 2
DATE 3/3/99
BILL NO. HB 214

Frank A. Ritchie
2670 Pinkerton Dr.
East Helena, MT 59635
March 2, 1999

Dear Chairperson and Committee Members:

I am in favor of the passage of HB 214 and urge you to vote in favor of this bill. I am a Professional Land Surveyor and have worked in this field for the last 29 years. I feel it is unreasonable to have no statute of limitations on surveying work. In my experience, the majority of errors made by surveyors are discovered within 10 years and most surveying errors are discovered prior to any major improvements and are resolved without litigation.

A statute of limitations would have a major effect on professional liability insurance rates. I talked to Lisa Dickut of Commercial Risk Solutions, Inc., a company in Denver, Colorado that specializes in liability insurance for land surveyors. She said that rates for professional liability insurance would drop by anywhere from 20% to 50% depending on the actual policy. This reduction in the cost of doing business for surveyors would be passed on to clients.

Again, I urge you to please vote for this bill.

Thank you very much,

Frank A. Ritchie

Frank A. Ritchie PLS

MONTANA SENATE
1999 LEGISLATURE
JUDICIARY COMMITTEE
ROLL CALL

DATE 3/3/99

NAME	PRESENT	ABSENT	EXCUSED
SEN. SUE BARTLETT	X		
SEN. STEVE DOHERTY	X		
SEN. DUANE GRIMES	X		
SEN. MIKE HALLIGAN	X		
SEN. RIC HOLDEN	X		
SEN. REINY JABS	X		
SEN. WALT MC NUTT	X		
SEN. AL BISHOP,VICE CHAIRMAN	X		
SEN. LORENTS GROSFIELD, CHAIRMAN	X		

SENATE STANDING COMMITTEE REPORT

March 3, 1999

Mr. President:

We, your committee on **Judiciary** report that **House Bill 214** (third reading copy -- blue) **be concurred in.**

Signed: _____
Senator Lorents Grosfield, Chair

To be carried by Senator Lorents Grosfield

- END -

Committee Vote:
Yes 8, No 0.

481216SC.sjo

DATE March 3, 1999

SENATE COMMITTEE ON Judiciary

BILLS BEING HEARD TODAY: HB 48, HB 116, HB 214

PLEASE PRINT

NAME	PHONE	REPRESENTING	BILL #	SUPPORT	OPPOSE
W. James Kembel	442-8684	Montana Technical Council	HB 214	✓	
Stephen Ries	442-5243	Ries Surveying L.L.P.	HB 214	✓	
Frank Ritchie	227-5513	Ritchie Land Surveying	HB 214	✓	
Charles R. Brooke	442-2405	DUI Task Force	HB 116	✓	
Virginia Mueller	449-8469	Mueller Consulting	HB 214	✓	
LARRY MARSHALL	4993918	MT ASSOCIATES, INC.	HB 214	✓	
Mike Ruppert	443-2343	BOYD ANDREW CUCC	HB 116	✓	
CANDACE PAYNE	442-7450	Rimrock Foundation	HB 116	✓	
Mona Jamison	442-5581	Mt. Addiction Services Assoc.	HB 116	✓	

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY